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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

ANTHONY L. BLANFORD and JOHN K.  
BELLVILLE,

Plaintiffs,

v.

MICHAEL J. DUNLEAVY, in his individual and  
official capacities; TUCKERMAN BABCOCK;  
and the STATE OF ALASKA

Defendants.

Case No. 3:19-cv- 00036-JWS

**ANSWER FOR ALL DEFENDANTS**

Defendants, Michael J. Dunleavy, Tuckerman Babcock, and State of Alaska  
(Defendants) respond to the “Complaint for Damages and Injunctive Relief” (Complaint),  
filed by Plaintiffs Anthony Blanford and John Bellville (Plaintiffs), as follows:

**Response to Plaintiffs’ Introduction**

1. Defendants deny the allegations in paragraph 1 of Plaintiffs’ complaint.

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2. This paragraph sets forth legal conclusions and questions of law to which no response is required.

3. This paragraph sets forth legal conclusions and questions of law to which no response is required.

4. This paragraph sets forth legal conclusions and questions of law to which no response is required. To the extent this paragraph sets forth a factual statement, Defendants deny the allegations in paragraph 4 of Plaintiffs' complaint.

5. Defendants admit paragraph 5 of Plaintiffs' complaint that Dr. Blanford and Dr. Bellville were employed at Alaska Psychiatric Institute (API).

6. Defendants deny the allegations in paragraph 6 of Plaintiffs' complaint.

7. Defendants deny the allegations in paragraph 7 of Plaintiffs' complaint.

8. Defendants admit that an editorial opinion piece was written by Dr. Blanford and published in the Anchorage Daily News. The letter to the editor speaks for itself. Defendants deny all remaining allegations in paragraph 8 of Plaintiffs' complaint.

9. Defendants deny the allegations in paragraph 9 of Plaintiffs' complaint.

10. Defendants deny the allegations in paragraph 10 of Plaintiffs' complaint.

11. Defendants deny the allegations in paragraph 11 of Plaintiffs' complaint.

### **Jurisdiction and Venue**

12. The jurisdictional statement was written when the case was filed in state court and is therefore an out of date statement of law. The case was removed to federal

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court and Defendants admit that the federal court has jurisdiction regarding the subject matter in the complaint for all the reasons set forth in the Notice of Removal.

13. The venue statement was written when the case was filed in state court and is therefore an out of date statement of law. Defendants admit that venue in Alaska federal court is appropriate for all the reasons set forth in the Notice of Removal.

### **Parties**

14. Defendants admit paragraph 14 of Plaintiffs' complaint.

15. Defendants admit John Bellville's McMinnville, Oregon residency and admit that prior to moving out of state he was a resident of Anchorage, Alaska.

16. Defendants admit that Michael Dunleavy is the Governor of the State of Alaska, and that he has been sued in his official and individual capacities. Defendants admit that Michael Dunleavy was involved in the process of asking at-will State of Alaska employees to submit letters of resignation. All remaining allegations in paragraph 16 of Plaintiffs' complaint are denied.

17. Defendants admit that Tuckerman Babcock is the Chief of Staff for Governor Dunleavy, admit that he was the chair of the transition team, and admit that Governor Dunleavy was elected November 6, 2018. Defendants admit that Mr. Babcock has been sued in his individual capacity. Defendants admit that Defendant Babcock was involved in the decision to accept Plaintiffs' letter of resignation. All remaining allegations and inferences in paragraph 17 of Plaintiffs' complaint are denied.

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18. Defendants admit paragraph 18 of Plaintiffs' complaint.

**Response to Plaintiffs' Factual Statements**

19. Defendants admit paragraph 19 of Plaintiffs' complaint.

20. Defendants admit paragraph 20 of Plaintiffs' complaint.

21. As to paragraph 21 of Plaintiffs' complaint, Defendants admit that API provides emergency and court-ordered inpatient psychiatric services in a safe environment using culturally-sensitive, effective, person-centered treatment followed by a referral to an appropriate level of care and support for recovery from mental illness.

22. As to paragraph 22 of Plaintiffs' complaint, Dr. Blanford and Dr. Bellville's duties were as written in their position descriptions, and Dr. Blanford also had duties as the Director of Psychiatry. All remaining allegations are denied.

23. Defendants admit Dr. Bellville was not a policymaker. All remaining allegations in paragraph 23 of Plaintiffs' complaint are denied.

24. Defendants admit the allegations in paragraph 24 of Plaintiffs' complaint.

25. Defendants admit that Tuckerman Babcock formerly served as the Chair of the Alaska Republican Party from April 30, 2016 to November 8, 2018. This allegation is irrelevant to the claims made herein and all remaining allegations in paragraph 25 of Plaintiffs' complaint are denied.

26. Defendants admit the role of the Chair of the Alaska Republican Party is, in part, to help promote Republican candidates for office and get candidates elected, but

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deny that was his “primary” role. This allegation is irrelevant to any claim made herein and all remaining allegations in paragraph 26 of Plaintiffs’ complaint are denied.

27. Defendants deny the allegation in paragraph 27 of Plaintiffs’ complaint is an accurate representation of Tuckerman Babcock’s positions or that the allegation has any relevance to the claims made herein. All remaining allegations stated in paragraph 27 of Plaintiffs’ complaint are denied.

28. Defendants deny the allegation in paragraph 28 of Plaintiffs’ complaint is an accurate representation of Tuckerman Babcock’s positions or that the allegation has any relevance to the claims made herein. All remaining allegations stated in paragraph 28 of Plaintiffs’ complaint are denied.

29. Defendants admit that Tuckerman Babcock sent the memorandum attached as Ex. 1 to their complaint, which speaks for itself, asking for letters of resignation. All remaining allegations in paragraph 29 of Plaintiffs’ complaint are denied.

30. Plaintiffs selectively quoted from a letter. The letter speaks for itself. The Defendants disagree with the characterization that the request for resignations was unprecedented and therefore deny the same. All remaining allegations in paragraph 30 of Plaintiffs’ complaint are denied.

31. Plaintiffs quoted from a newspaper article that reported Defendant Babcock was questioned about the memorandum. The quote is selective, as noted by the ellipses,

and therefore not a complete or accurate representation of his comments. All remaining allegations stated in paragraph 31 of Plaintiffs' complaint are denied.

32. Defendants deny that the memorandum was intended to request resignations for the purpose of soliciting "a pledge of allegiance." All remaining allegations made in paragraph 32 of Plaintiffs' complaint are denied.

33. Plaintiffs quoted from a newspaper article. Defendants deny that the memorandum was intended to request resignations for the purpose of soliciting "a pledge of allegiance." All remaining allegations stated in paragraph 33 of Plaintiffs' complaint are denied.

34. Plaintiffs selectively quoted from a newspaper article, as noted by the use of ellipses, and therefore the selected quote does not represent a complete or accurate representation of his comments. All remaining allegations stated in paragraph 34 of Plaintiffs' complaint are denied.

35. Plaintiffs selectively quoted from the memorandum sent to all at-will employees. The memo speaks for itself. All remaining allegations stated in paragraph 35 of Plaintiffs' complaint are denied.

36. Defendants admit that a deadline of November 30, 2018 was set for at-will employees to submit their resignations. Defendants deny that the memorandum was intended to request resignations for the purpose of soliciting "a statement of allegiance." All remaining allegations in paragraph 36 of Plaintiffs' complaint are denied.

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37. Defendants admit that at-will employees at API received the memorandum requesting a resignation letter be submitted. Defendants admit that Dr. Bellville was not a policymaker. All remaining allegations in paragraph 37 of Plaintiffs' complaint are denied.

38. Defendants admit paragraph 38 of Plaintiffs' complaint.

39. Plaintiffs have selectively quoted from the editorial opinion submitted by Dr. Blanford to the media. The letter speaks for itself. Defendants deny all remaining allegations in paragraph 39 of Plaintiffs' complaint.

40. Plaintiffs have selectively quoted from the editorial opinion submitted by Dr. Blanford to the media. The letter speaks for itself. Defendants deny the remaining allegations in paragraph 44 of Plaintiffs' complaint.

41. Defendants admit paragraph 41 of Plaintiffs' complaint that neither Dr. Blanford nor Dr. Bellville submitted their resignation to the transition team by the stated deadline of November 20, 2018.

42. Defendants admit paragraph 42 of Plaintiffs' complaint that their position with the State of Alaska was terminated, effective December 3, 2018 at noon.

43. Defendants admit paragraph 43 of Plaintiffs' complaint that Governor Dunleavy was sworn in as the Governor of Alaska at noon, December 3, 2018.

44. Defendants decline, pursuant to Alaska law, to discuss personnel matters of non-parties in a public pleading without a protective order in place, and therefore deny the allegations in paragraph 44 of Plaintiffs' complaint.

45. Defendants decline, pursuant to Alaska law, to discuss personnel matters of non-parties in a public pleading without a protective order in place, and therefore deny the allegations in paragraph 45 of Plaintiffs' complaint.

46. Defendants can neither deny nor admit the allegations in this paragraph because the Defendants do not know to whom these allegations refer, therefore, the Defendants deny the allegations in paragraph 46 of Plaintiffs' complaint.

**Response to First Cause of Action: 42 USC 1983  
Violation of Right to Freedom of Speech Under the  
First Amendment of the U.S. Constitution**

47. This paragraph sets forth legal conclusions and questions of law to which no response is required.

48. This paragraph sets forth legal conclusions and questions of law to which no response is required.

49. This paragraph sets forth legal conclusions and questions of law to which no response is required.

50. Defendants deny the allegations in paragraph 50 of Plaintiffs' complaint.

51. Defendants deny the allegations in paragraph 51 of Plaintiffs' complaint.

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52. Defendants admit that Dr. Bellville was employed in a non-policy making role. Defendants deny all remaining allegations in paragraph 52 of Plaintiffs' complaint.

53. Defendants deny the allegations in paragraph 53 of Plaintiffs' complaint.

54. Defendants deny the allegations in paragraph 54 of Plaintiffs' complaint.

55. Defendants deny the allegations in paragraph 55 of Plaintiffs' complaint.

56. Defendants deny the allegations in paragraph 56 of Plaintiffs' complaint.

57. Defendants deny the allegations in paragraph 57 of Plaintiffs' complaint.

**Response to Second Cause of Action: Violation of the  
Right to Freedom of Speech Under Article I §5 of the Alaska Constitution**

58. This paragraph sets forth legal conclusions and questions of law to which no response is required.

59. This paragraph sets forth legal conclusions and questions of law to which no response is required.

60. This paragraph sets forth legal conclusions and questions of law to which no response is required.

61. Defendants deny the allegations in paragraph 61 of Plaintiffs' complaint.

62. Defendants deny the allegations in paragraph 62 of Plaintiffs' complaint.

63. Defendants admit that Dr. Bellville was employed in a non-policy making role. Defendants deny all remaining allegations in paragraph 63 of Plaintiffs' complaint.

64. Defendants deny the allegations in paragraph 64 of Plaintiffs' complaint.

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65. Defendants deny the allegations in paragraph 65 of Plaintiffs' complaint.

66. Defendants deny the allegations in paragraph 66 of Plaintiffs' complaint.

Further, there is no private right of action under the Alaska Constitution and the claim should be dismissed.

67. Defendants deny the allegations in paragraph 67 of Plaintiffs' complaint.

68. Defendants deny the allegations in paragraph 68 of Plaintiffs' complaint.

**Response to Third Cause of Action: Violation of the  
Implied Covenant of Good Faith and Fair Dealing**

69. This paragraph sets forth legal conclusions and questions of law to which no response is required.

70. This paragraph sets forth legal conclusions and questions of law to which no response is required.

71. This paragraph sets forth legal conclusions and questions of law to which no response is required.

72. This paragraph sets forth legal conclusions and questions of law to which no response is required.

73. This paragraph sets forth legal conclusions and questions of law to which no response is required.

74. This paragraph sets forth legal conclusions and questions of law to which no response is required.

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75. This paragraph sets forth legal conclusions and questions of law to which no response is required. Defendants are unaware of what Plaintiffs' "understanding" was at the time of their hiring and therefore deny this allegation.

76. Defendants deny the allegations in paragraph 76 of Plaintiffs' complaint.

77. Defendants deny the allegations in paragraph 77 of Plaintiffs' complaint.

78. Defendants deny the allegations in paragraph 78 of Plaintiffs' complaint.

79. Defendants deny the allegations in paragraph 79 of Plaintiffs' complaint.

### **AFFIRMATIVE DEFENSES**

By way of further answer, Defendants assert the following affirmative defenses:

1. Plaintiffs' complaint, in whole or in part, fails to state a claim upon which relief may be granted.

2. Plaintiffs have intentionally sought media attention both before and after their termination to bolster their case, and have thereby caused, in whole or in part, their own damages.

3. Plaintiffs' claims are void, being in violation of public policy.

4. Plaintiffs do not have standing to bring a direct tort action under the Alaska Constitution.

5. Plaintiffs have misinterpreted Alaska statutes.

6. Defendants are entitled to the benefits of AS 09.17.010 *et seq.*

7. Plaintiffs have failed to mitigate their damages as required by law.

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8. Defendants are entitled to discretionary and absolute immunity.
9. Defendants are entitled to qualified immunity.
10. Defendants actions are protected by executive privilege.
11. Alaska law has not recognized a direct tort action or an implied cause of action for a violation of the Alaska Constitution.
12. The damages alleged by Plaintiffs, if any, were directly and legally caused by their own conduct constituting comparative negligence, and damages, if any, must be proportionately reduced according to AS 09.17.080.
13. Plaintiffs have failed to provide a reason under *Monell* to sue the State or the Governor in his official capacity, and the claim should be dismissed.
14. Defendants had a privilege to take the actions complained of above.
15. Defendants reserve the right to add any and all other affirmative defenses as may be revealed by further investigation and discovery.

Wherefore, having fully answered Plaintiffs' complaint herein, Defendants requests that the complaint in its entirety be dismissed with prejudice, that Defendants be awarded costs and attorney fees incurred in the defense of the Complaint, and that the Court award such other and further relief as is just and appropriate under the circumstances.

DATED at Anchorage, Alaska, this 10<sup>th</sup> day of May, 2019.

CLAPP, PETERSON, TIEMESSEN,  
THORSNESS & JOHNSON, LLC  
Attorneys for Defendant

By s/ Linda J. Johnson  
Linda J. Johnson, ABA No. 8911070

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of May, 2019, a  
copy of the foregoing document was served  
electronically through the ECF system on:

Stephen Koteff  
Joshua A. Decker  
[skoteff@acluak.org](mailto:skoteff@acluak.org)  
[jdecker@acluak.org](mailto:jdecker@acluak.org)

By: s/ Linda J. Johnson

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